

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dany Sylvain

Examiner: Sall, El Hadji Malick

Serial No. 10/693,807

Art Unit: 2157

Filed: 10/24/2003

For: **REHOMING VIA TUNNEL SWITCHING**

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Sir:

ONE-MONTH EXTENSION OF TIME

Please consider this a request for a One-month Extension of Time for responding to the Advisory Action in the above-identified application. Enclosed is a payment in the amount of \$120.00 to pay the fee associated with this extension of time. A Notice of Appeal is being filed concurrently with this extension.

Applicant wishes to note that only a one-month extension of time should be required in association with this notice of appeal. A Final Office Action was mailed on January 24, 2008. Applicant filed a response on March 19, 2008, before the two-month deadline. An Advisory Action was mailed on April 11, 2008; however, this Advisory Action mailed on April 11, 2008 only addressed Applicant's arguments that the cited reference was not prior art under 35 U.S.C. § 102(e) because Yu was not filed before Applicant's date of invention. The Advisory Action mailed on April 11, 2008 was improper since it did not address Applicant's arguments that even if the reference could be considered prior art under 35 U.S.C. § 102(e), a point Applicant did not concede, the reference does not anticipate the claimed invention as Yu does not teach each and every element of the claimed invention. As such, Applicant filed a response to the Advisory Action on April 22, 2008, before the three-month deadline to point out the defect of the Advisory Action on April 22, 2008. The Examiner issued a new Advisory Action on May 28, 2008 (after the four-month date), which for the first time finally addressed all of Applicant's arguments.

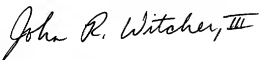
The first Advisory Action mailed April 11, 2008 was defective because it did not address all of Applicant's arguments. Applicant pointed out this defect of the Advisory Action within one month of the mailing date of the Advisory Action by filing a response on April 22, 2008. The Patent Office then issued a second Advisory Action on May 28, 2008 after the four-month date of the Final Office Action in order to correct the defect of the Advisory Action mailed April

22, 2008. Applicant therefore maintains that only a one-month extension of time fee should be required since the period for reply runs from the date the error is corrected. See M.P.E.P. § 710.06 (period for reply runs from date error is corrected).

If any additional fees are required in association with this request, the Director is hereby authorized to charge them to Deposit Account 50-1732, and to consider this a petition therefor.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By: 

John R. Witcher, III
Registration No. 39,877
100 Regency Forest Drive, Suite 160
Cary, NC 27518
Telephone: (919) 238-2300

Date: June 23, 2008

Attorney Docket: 7000-265